

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF TEXAS

No. 6:24-cv-00136

**Kirk Asa Fregia, Sr.,**  
*Plaintiff,*

v.

**Warden Unknown Marshall et al.,**  
*Defendants.*

**O R D E R**

Plaintiff Kirk Asa Fregia, Sr., a prisoner of the Texas Department of Criminal Justice proceeding pro se, filed a habeas petition alleging violation of his constitutional rights in prison, which the court construes to be a civil suit pursuant to 42 U.S.C. § 1983. The case was referred to United States Magistrate Judge K. Nicole Mitchell pursuant to 28 U.S.C. § 636(b).

On June 5, 2024, the magistrate judge issued a report recommending that this case be dismissed without prejudice due to plaintiff's failure to comply with the court's order to file an amended complaint. Doc. 9. A copy of the report was mailed to plaintiff, who received it on June 11, 2024. Doc. 10. Plaintiff did not file written objections.

When no party objects to the magistrate judge's report and recommendation, the court reviews it only for clear error. *See Douglass v. United Servs. Auto. Ass'n*, 79 F.3d 1415, 1420 (5th Cir. 1996). Having reviewed the magistrate judge's report, and being satisfied that it contains no clear error, the court accepts its findings and recommendation.

Plaintiff's lawsuit is dismissed, without prejudice, for plaintiff's failure to comply with an order of the court and for plaintiff's failure to prosecute his case. Any pending motions are denied as moot.

*So ordered by the court on August 16, 2024.*

  
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J. CAMPBELL BARKER  
United States District Judge